

## AMS/FAST CHANGE REQUEST (CR) COVERSHEET

**Change Request Number:** 23-41

**Date Received:** March 4, 2023

**Title:** Establishing AMS Guidance T3.8.9 Information and Communication Technology and Updates to Section 508

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**Policy and Guidance:** (Please check only one box)

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|---|--|
| <input type="checkbox"/> Policy                 | <input type="checkbox"/> Procurement Tools and Resources     |
| <input checked="" type="checkbox"/> Guidance    | <input type="checkbox"/> Real Property Templates and Samples |
| <input type="checkbox"/> Procurement Samples    | <input type="checkbox"/> Procurement Clauses                 |
| <input type="checkbox"/> Procurement Templates  | <input type="checkbox"/> Real Property Clauses               |
| <input type="checkbox"/> Procurement Forms      | <input type="checkbox"/> Other Tools and Resources           |
| <input type="checkbox"/> Procurement Checklists |  |

### Summary of Change:

A new Section to AMS Guidance, T3.8.9 Information and Communication Technology, is established. This new section includes AMS' updated Section 508 Procurement Guidance.

### Reason for Change:

Federal agencies are required to ensure information and communication technology (ICT) that is procured, developed, maintained, or used meets the requirements of Section 508 of the Rehabilitation Act of 1973, as amended. FAA Order 1370.120A establishes FAA's enterprise-wide Section 508 Accessibility Policy. This change establishing T3.8.9 will conform AMS to FAA Order 1370.120A. Other Change Requests made during this AMS April Update include administrative changes necessary to establishing T3.8.9's new subsection relating to Section 508. This includes a change request in which the current Section 508 subsection within AMS Guidance, Section T3.2.2.3.B.4, is deleted. While T3.8.9 will simply contain Section 508 Guidance as of this April 2023 Update, other subsections related to ICT may be added to T3.8.9 in the future as appropriate.

**Development, Review, and Concurrence:** AAP-110, ASP-110

**Target Audience:** Contracting and Program Office Personnel

**Briefing Planned:** Yes.

**ASAG Responsibilities:** ASAG Approved on March 21, 2023.

**Section / Text Location:** Procurement Guidance Section T3.8.9

**The redline version must be a comparison with the current published FAST version.**

- ☐ I confirm I used the latest published version to create this change / redline  
**or**  
☒ This is new content

**Links:** <https://fast.faa.gov/docs/procurementGuidance/guidanceT3.8.9>

**Attachments:** new section

**Other Files:** N/A.

**Redline(s):**

## **Section Revised: T3.8.9 – Information and Communication Technology**

### **Procurement Guidance - (4/2023)**

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[T3.8.9 Information and Communication Technology](#) Added 4/2023

[A Acquisition of Information Technology](#) Added 4/2023

[1 Section 508 of the Rehabilitation Act](#) Added 4/2023

[B Clauses](#) Added 4/2023

[C Procurement Forms](#) Added 4/2023

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[F Procurement Tools and Resources](#) Added 4/2023

[G Procurement Checklists](#) Added 4/2023

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### **T3.8.9 Information and Communication Technology** Added 4/2023

#### **A Acquisition of Information and Communication Technology** Added 4/2023

##### **1 Section 508 of the Rehabilitation Act** Added 4/2023

a. *Applicability.*

(1) Section 508 of the Rehabilitation Act (29 U.S.C. 794d), as amended in 1998, applies to all SIRs and contracts for Information and Communication Technology (ICT) made on or after June 21, 2001 with the exception of those procurements listed in (d) *Exceptions*, below. In accordance with Section 508, ICT products and services must meet the applicable Access Board ICT Accessibility Standards and Section 508 requirements. Any ICT procured prior to June 21, 2001 is not required to be retrofitted. When procuring ICT, the procurement team must ensure:

- (i) applicable Section 508 technical standards are identified;
- (ii) solicitations include references to the identified standards;
- (iii) market research is performed to include consideration of Section 508 compliance;
- (iv) selection of the product or service that meets business requirements and best meets Section 508 requirements is selected; the product or service that meets business requirements and Section 508 requirements is selected; and
- (v) documentation is retained to demonstrate compliance with Section 508 requirements.

(2) *Legacy ICT.* Any component or portion of existing ICT procured, maintained or used prior to January 18, 2018 is not required to comply with the *most current* ICT standards if it—

- (i) Complies with an earlier standard issued pursuant to section 508, which is set forth in Appendix D to 36 CFR 1194.1; and
- (ii) Has not been fundamentally altered (*i.e.*, changed in a manner that affects interoperability, the user interface, or access to information or data) after January 18, 2018.

(3) *Alterations of Legacy ICT.* When altering a component or portion of existing ICT, after January 18, 2018, the component or portion must be modified to conform to the most current ICT accessibility standards in 36 CFR 1194.1

b. *Definitions.* As used in this subsection—

(1) “Alternate Means of Access” means different methods of providing information, including product documentation, to people with disabilities when meeting the Access Board standards would impose an undue burden or fundamental alteration in the ICT. The term may include, but

is not limited to, voice, fax, relay service, TTY, internet posting, captioning, text-to-speech synthesis, and audio description.

(2) “Commercial Non-availability” means an instance where FAA is unable to find a commercial item that meets applicable information and communication accessible standards or when an item cannot be furnished to satisfy FAA’s requirements.

(3) “Content” means electronic information and data, as well as the encoding that defines its structure, presentation, and interactions.

(4) “Disability” means a physical or mental impairment that substantially limits one or more major life activities.

(5) “Information and Communication Technology (ICT)” means information technology, as defined by The Access Board, at 36 CFR 1194.4, and any equipment or interconnected system or subsystem of equipment that is used in the creation, conversion or duplication of data or information. ICT includes, but is not limited to: software applications and operating systems, telecommunications products, information kiosks and transaction machines, Web sites (Internet, Intranet and Extranet), video and multimedia products, desktop and portable computers, office equipment such as copiers and fax machines, and documents posted online (e.g., Word, PDF). For the purposes of this definition, equipment is used by the FAA if:

(i) It is used directly by FAA; or

(ii) It is used by a contractor under a contract with FAA that—

(a) Requires use of such equipment; or

(b) Requires use, to a significant extent, of such equipment in performance of a service of furnishing of a product.

(6) “Fundamental Alteration” means incorporating accessibility features into a product that alters the product in such a way as to reduce substantially the functionality of the product, to render some features inoperable, to impede substantially or deter use of the product by individuals without the specific disability the feature is designed to address, or to alter substantially and materially the shape, size or weight of the product.

(7) “National Security System” means any telecommunications or information system operated by the United States Government, the functions, operation, or use of which involves intelligence activities; cryptologic activities related to national security; the command and control of military forces; equipment that is an integral part of weapon or weapons system or before is critical to the direct fulfillment of military or intelligence missions. This does not include a system that is to be used for routine administrative and business applications, such as payroll, finance, logistics, and personnel management applications.

(8) “Incidental Contract” means a contract of a contractor that acquires products that are neither

used nor accessed by Federal employees or members of the public (contracted employees in their professional capacity are not considered members of the public).

(9) “Undue Burden” means significant difficulty or expense when considering all agency resources available to the program or component for which the product is being developed, procured, maintained, or used.

(10) “Web Content Accessibility Guidelines (WCAG)” are the guidelines published by the Web Accessibility Initiative of the World Wide Web Consortium which explain how web content can be made to be more accessible to people with disabilities.

c. *General.*

Federal agencies are required to ensure information and communication technology (ICT) that is procured, developed, maintained, or used meets the requirements of Section 508 of the Rehabilitation Act of 1973 (29 U.S.C. 794d) (referred to in this subsection by its shorthand “Section 508”). FAA’s enterprise-wide adherence to these requirements is established by FAA Order 1370.120A, Section 508 Accessibility Policy. In accordance with FAA Order 1370.120A, this AMS Guidance subsection implements Section 508 and the Architectural and Transportation Barriers Compliance Board’s (U.S. Access Board) ICT accessibility standards at 36 CFR 1194.1 to ensure that ICT procured by the FAA provides employees and members of the public with disabilities access to and use of ICT that is comparable to that of individuals without disabilities.

d. *Exceptions.*

(1) Section 508 requirements do not apply to the following procurements—

- (i) ICT operated by FAA as part of a national security system;
- (ii) ICT acquired by a contractor incidental to a contract; or
- (iii) ICT which is located in spaces frequented only by service personnel for maintenance, repair or monitoring of equipment;

(2) *Documentation.* If the service organization determines that an exception applies, it must document the exception and ensure such documentation is maintained in the contract file.

e. *Waivers.*

(i) A waiver to Section 508 requirements may be appropriate and sought under the following circumstances—

- (a) *Undue Burden.* Complying with ICT would impose an undue burden to FAA. If such a waiver is authorized, the applicable procurement need only to conform with Section 508 requirements to the extent they will not create an undue burden. (*Note: An exception from the WCAG is considered an exception for undue*

*burden.)*

(b) *Fundamental Alteration.* Complying with ICT would result in a fundamental alteration in the nature of the ICT. If such a waiver is authorized, procurements need only to conform with Section 508 requirements to the extent they will not create a fundamental alteration.

(c) *Commercial Non-availability.* ICT products and or services are not commercially available, or such an item cannot be furnished to satisfy the requirement. In such instances FAA must procure such products or services in the commercial marketplace that best meet the ICT accessibility standards consistent with the agency's needs.

(ii) *Alternate Means of Access.* When a waiver is granted under this subsection, FAA must provide individuals with disabilities access to and use of information and data by an alternative means.

(iii) *Authorization and Documentation of Waivers.*

(a) *Authorization Process.* Waivers to Section 508 requirements made under this subsection require review from multiple parties and authorization from the DOT Secretary or their designee. If a service organization determines that a waiver is appropriate and should be sought, the service organization must consult AIT's Policy and Administrative Branch (ASP-110) for guidance on the appropriate action to be taken.

(b) *Documentation.* A determination of (a)(i) *Undue Burden* or (a)(ii) *Fundamental Alteration* must, respectively, address the extent compliance with applicable ICT standards would constitute a significant hardship on the agency or how compliance would result in a fundamental alteration of the ICT. A determination of (a)(iii) *Commercial Non-availability* must include (1) A description of the market research performed; (2) A listing of the requirements that cannot be met; and (3) The rationale for determining that the ICT to be procured best meets the ICT accessibility standards in 36 CFR 1194.1, consistent with the agency's needs.

f. *Roles and Responsibilities.* Requiring Officials, Contracting Officers, Contracting Officer's Representatives and Purchase Cardholders are responsible for ensuring accessibility requirements are addressed in all applicable procurements. To carry out their specific responsibilities, outlined below, the "[Accessibility Requirements Tool](#)," provided by GSA, must be used. The Accessibility Requirements Tool is a step-by-step guide that helps identify relevant Section 508 accessibility requirements and incorporate them into procurement and SIR documentation, as well as in-house IT development.

(1) *Requiring Officials.* Requiring officials must identify and incorporate relevant Section 508 accessibility requirements in their procurements. These requirements and or determinations that

an exception applies must be documented in the contract file.

(2) *Contracting Officers (CO)*. COs must review all SOWs and purchase requests to ensure requiring officials have included necessary Section 508 documentation within the requirements documentation. COs must ensure this documentation as well as a Section 508 Checklist is incorporated into the contract file. The Section 508 Checklist can be found in Procurement Checklists.

(3) *Contracting Officer's Representatives (COR)*. CORs must ensure any ICT deliverables meet the Section 508 requirements as outlined in procurement documents by validating vendor claims prior to acceptance of deliverables;

(4) *Purchase Cardholders*. When procuring ICT by purchase card, the purchase cardholder must verify any ICT products and services meet Section 508 requirements prior to purchase, as appropriate.

## B Clauses

[view contract clauses](#)

## C Procurement Forms Revised 4/2023

Document Name

## D Procurement Samples Revised 4/2023

Document Name

## E Procurement Templates Added 4/2023

Document Name

## F Procurement Tools and Resources Added 4/2023

Document Name
<a href="#">Accessibility Requirements Tool</a>

## G Procurement Checklists Added 4/2023

Document Name